

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:17-cv-00073-MR**

COBEY LaKEMPER,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
GEORGE T. SOLOMON, et al.,)	
)	
Defendants.)	
<hr style="width:40%; margin-left:0"/>)	

THIS MATTER is before the Court on the “Defendants’ Request for a Judicial Settlement Conference and Response to Order Regarding Potential for Bench Trial” [Doc. 114]; the Plaintiff’s “Notice of Non-Waiver” [Doc. 115]; and the “Plaintiff’s Motion for Relief from the Order Entered on June 9, 2020, and Objections Thereto”. [Doc. 116].

On June 9, 2020, the Court entered an Order directing the parties to advise the Court whether they would agree to a bench trial in this matter. In that Order, the Court further ruled that the Plaintiff was not entitled to appointed counsel for the trial. [Doc. 113].

The parties have now responded to the Court’s Order. The Plaintiff has elected not to waive his right to a jury trial. [Doc. 115]. In lieu of

indicating a preference for the type of trial, the Defendants request that the Court hold a Judicial Settlement Conference, so as to best determine whether a trial (by the Court or by a jury) is in fact necessary. [Doc. 114].

In light of the parties' response, the Court will set this matter for a trial by jury during the Court's January 11, 2021 term. The Court will further grant the Defendants' request for a Judicial Settlement Conference, and this matter will be referred to a United States Magistrate Judge for that purpose.

The Plaintiff objects to the Court's June 9, 2020, and asks the Court to reconsider the appointment of counsel to represent him at trial. [Doc. 116]. As the Court previously noted [Doc. 113], the Plaintiff has not presented exceptional circumstances warranting the appointment of counsel in this case. See Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987) (holding that plaintiff must present "exceptional circumstances" in order to justify appointment of attorney). Thus, the Plaintiff's motion for reconsideration of the Court's June 9, 2020 Order will be denied.

IT IS, THEREFORE, ORDERED that:

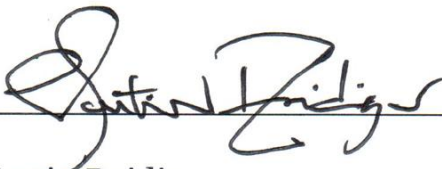
(1) The Defendants' Request for a Judicial Settlement Conference [Doc. 114] is **GRANTED**, and this matter is hereby referred to a United States Magistrate Judge for the purpose of conducting a Judicial Settlement Conference;

(2) This case is hereby set for a trial by jury during the first mixed term beginning on or after **January 11, 2021**; and

(3) The Plaintiff's Motion for Relief from the Order Entered on June 9, 2020, and Objections Thereto [Doc. 116] is **DENIED**.

IT IS SO ORDERED.

Signed: July 13, 2020



Martin Reidinger
Chief United States District Judge

